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Attorneys for Defendant
TARGET CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GERALDINE DALIDA,

Plaintiff,

vs.

TARGET CORPORATION, and DOES 1
through 10,

Defendant(s).

San Mateo County Superior Court
Case No. 22-CIV-02011

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY
JURISDICTION); DEMAND FOR JURY
TRIAL**

Complaint Filed: May 17, 2022

TO THE CLERK OF THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD
HEREIN:

PLEASE TAKE NOTICE that Defendant TARGET CORPORATION (“Defendant”) hereby
removes to this Court the state court action described below.

INTRODUCTION

1. This is a civil action over which this Court has original jurisdiction under 28 U.S.C. section 1332, and is one which may be removed to this Court by defendants pursuant to 28 U.S.C. section 1441 (b) in that this action involves citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

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PROCEDURES FOR REMOVAL

2. On May 17, 2022, Plaintiff Geraldine Dalida filed an action in the Superior Court of the State of California, in and for the County of San Mateo, styled *Geraldine Dalida v. Target Corporation, et al.*, case number 22-CIV-02011, attached hereto as **Exhibit “A”**, alleging a cause of action for premises liability stemming from a July 11, 2020, incident occurring at a Target store located at Serramonte Center in Daly City, California.
3. Notice of Removal is timely pursuant to 28 U.S.C. § 1446. In cases where removability appears on the face of the state court complaint, a notice of removal must be filed “within 30 days after the receipt by the defendant, through services or otherwise” of the initial pleading from which removability can be ascertained. 28 U.S.C. § 1446(b)(1). Plaintiff’s complaint was served on Defendant Target Corporation on May 19, 2022.
4. Currently, there are no other defendants who have been properly joined and served and therefore no consent for removal is necessary at this time.
5. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being promptly served upon Plaintiff and filed with the Clerk of the Superior Court of the State of California for the County of San Mateo.
6. Assignment to this Court in the San Francisco Division is proper because the state court action was originally filed in Santa Clara County. See L.R.3-2(d).

DIVERSITY OF CITIZENSHIP

7. For purposes of diversity jurisdiction, diversity must exist at the time a complaint is filed, and at the time of removal. *Strotek Corp. v. Air Transp. Ass’n. of Am.*, 300 F.3d 1129, 1131 (9th Cir. 2002.).
8. For diversity purposes, a person is a “citizen” of the state in which he is domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). Complete diversity of citizenship exists in that: Plaintiff is a citizen of the State of California; and Defendant Target Corporation is a corporation incorporated under the laws of Minnesota.

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JURISDICTIONAL AMOUNT

9. While Defendant denies liability as to Plaintiff's claims, Defendant has a reasonable, good faith belief that the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs, based upon Plaintiff's complaint allegations and other documentary evidence obtained by Defendant.
10. An action may be removed if the defendant establishes, by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional amount. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007). To establish by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional amount, "the defendant must provide evidence establishing that it is 'more likely than not' that the amount in controversy exceeds that amount." *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).
11. In determining whether the amount in controversy is proper for diversity jurisdiction, the Ninth Circuit has "...endorsed the Fifth Circuit's practice of considering facts presented in the removal petition as well as any 'summary-judgment-type evidence relevant to the amount in controversy at the time of removal.'" *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).
12. In determining the amount in controversy, the Court must consider the aggregate of general damages, special damages, punitive damages, and attorneys' fees. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (claims for statutory attorneys' fees to be included in amount in controversy, regardless of whether such an award is discretionary or mandatory); *Davenport v. Mutual Benefit Health & Accident Ass'n*, 325 F.2d 785, 787 (punitive damages must be taken into account where recoverable under state law); *Conrad Assoc. v. Hartford Accident & Ind. Co.*, 994 F. Supp. 1196, 1198 (N.D. Cal. 1998) ("amount in controversy" includes claims for general and special damages).
13. The complaint does not allege the amount in controversy. However, Plaintiff seeks damages for wage loss, hospital and medical expenses, general damages, and loss of earning capacity. (**Exhibit A**, p. 3 ¶ 11) Upon information and belief, Plaintiff is alleging injuries to her neck, low back, right hip and right knee as a result of the subject incident. She has allegedly undergone a

1 right hip arthroscopic surgery to repair a labrum tear, as well as a cervical fusion and
2 laminectomy, which Plaintiff contends were necessitated as a direct result of the subject incident.
3 Plaintiff is alleging over \$351,000 in past medical specials and over \$20,000 in lost wages. In
4 addition to these amounts, Plaintiff is claiming general damages and loss of earning capacity.

5 14. Based on the above purported allegations, it is “more likely than not” that the amount in
6 controversy exceeds \$75,000, exclusive of interest and costs, as required by 28 U.S.C. section
7 1332(a).

8 **VENUE**

9 15. Venue in this Division of this Court is proper because the alleged negligent events underlying
10 the allegations in the Plaintiffs’ complaint took place in San Mateo County, California.

11 **28 U.S.C. section 1446**

12 16. Pursuant to 28 U.S.C. section 1446(a), copies of all process, pleadings, and orders in Defendant’s
13 possession are already included in **Exhibit “A.”**

14 17. Pursuant to 28 U.S.C. section 1446(d), Defendant will serve on Plaintiff and file with the Clerk
15 of the Superior Court for the County of San Mateo written notice regarding removal of this
16 action, attaching a copy of this Notice of Removal and all supporting papers.

17 **DEMAND FOR JURY TRIAL**

18 Defendants hereby demand a jury trial in this matter.

19
20 Dated: June 14, 2022

VOGL MEREDITH BURKE LLP


21 By: 
22 Emily Fowler
23 Anastasia McMurry
24 Attorneys for Defendant
25 TARGET CORPORATION
26
27
28

EXHIBIT A

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Target Corporation, Does 1 to 10

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Geraldine Dalida

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)Electronically
FILED

by Superior Court of California, County of San Mateo

ON 5/17/2022

By /s/ Salote Alipate
Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of San Mateo
400 County Center, 1st Floor, Room A
Redwood City, CA 94063

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Brian L. Larsen 158252 Law Offices of Brian L. Larsen
530 Jackson Street, 2nd Floor (415) 398-5000
San Francisco, CA 94133

DATE: 5/17/2022
(Fecha)

Neal I. Taniguchi

Clerk, by

/s/ Salote Alipate

, Deputy

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): TARGET CORPORATION

under:

- ☒ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

- ☐ by personal delivery on (date):

Electronically
FILED
by Superior Court of California, County of San Mateo
ON **5/17/2022**
By **/s/ Salote Alipate**
Deputy Clerk

- ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

Dalida v. Target

CASE NUMBER:

22-CIV-02011

4. ☐ Plaintiff (name):
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a. ☒ except defendant (name):

Target Corporation

(1) ☐ a business organization, form unknown

(2) ☒ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

- c. ☐ except defendant (name):

(1) ☐ a business organization, form unknown

(2) ☐ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

- b. ☐ except defendant (name):

(1) ☐ a business organization, form unknown

(2) ☐ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

- d. ☐ except defendant (name):

(1) ☐ a business organization, form unknown

(2) ☐ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1 - 10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b. ☒ Doe defendants (specify Doe numbers): 1 - 10 are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.

b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.

d. ☐ other (specify):

9. ☐ Plaintiff is required to comply with a claims statute, and

a. ☐ has complied with applicable claims statutes, or

b. ☐ is excused from complying because (specify):

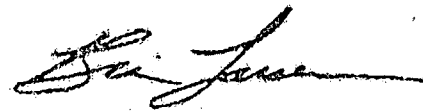
SHORT TITLE: Dalida v. Target	CASE NUMBER: 22-CIV-02011
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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):
- ☐ Motor Vehicle
 - ☐ General Negligence
 - ☐ Intentional Tort
 - ☐ Products Liability
 - ☒ Premises Liability
 - ☐ Other (*specify*):
11. Plaintiff has suffered
- ☒ wage loss
 - ☐ loss of use of property
 - ☒ hospital and medical expenses
 - ☒ general damage
 - ☐ property damage
 - ☒ loss of earning capacity
 - ☐ other damage (*specify*):
12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- ☐ listed in Attachment 12.
 - ☐ as follows:
13. The relief sought in this complaint is within the jurisdiction of this court.
14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- (1) ☒ compensatory damages
 - (2) ☐ punitive damages
- The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):
- (1) ☒ according to proof
 - (2) ☐ in the amount of: \$
15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):
Prem. L. 1, 2, 5.

Date: May 17, 2022

Brian L. Larsen

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Dalida v. Target	CASE NUMBER: 22-CIV-02011
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1 CAUSE OF ACTION - Premises Liability
(number)

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint
(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Geraldine Dalida
alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.
On (date): July 11, 2020 plaintiff was injured on the following premises in the following
fashion (description of premises and circumstances of injury):
plaintiff slipped and fell at the Target store located at the
Serramonte Center in Daly City, California.

Prem.L-2. ☒ **Count One-Negligence** The defendants who negligently owned, maintained, managed and operated
the described premises were (names):
Defendant

☒ Does 1 to 10

Prem.L-3. ☐ **Count Two-Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or
maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were
(names):

☐ Does _____ to _____
Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three-Dangerous Condition of Public Property** The defendants who owned public property on
which a dangerous condition existed were (names):

- ☐ Does _____ to _____
- a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the
dangerous condition in sufficient time prior to the injury to have corrected it.
- b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other
defendants and acted within the scope of the agency were (names):
Defendant

- ☒ Does 1 to 10
- b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are
☐ described in attachment Prem.L-5.b ☐ as follows (names):

Geraldine Dalida vs. Target Corporation, et al.

United States District Court – Northern District of California

San Francisco Division Case No: 3:22-cv-3509

CERTIFICATE OF SERVICE

I am employed in the County of San Francisco, California, and I am over the age of 18 years and not a party to the within action. My electronic notification address is alei@vmbllp.com and my business address is 456 Montgomery Street, 20th Floor, San Francisco, California 94104.

On **June 14, 2022**, the following document(s) were served via CM/ECF Filer:

- **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (DIVERSITY JURISDICTION);
DEMAND FOR JURY TRIAL**

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on **June 14, 2022** at San Francisco, California.

/s/ Alice Lei
Alice Lei